

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 11,946

IN THE MATTER OF:

Served April 23, 2009

DAVID TIMOTHY ROBINSON, Trading as) Case No. MP-2009-010
DR & W TRANSPORTATION SERVICES,)
Suspension and Investigation of)
Revocation of Certificate No. 995)

Certificate No. 995 has been suspended since January 15, 2009, for respondent's willful failure to comply with the insurance requirements specified in Regulation No. 58. Order No. 11,802, served January 15, 2009, noted that Certificate No. 995 would be subject to revocation if respondent failed to file the necessary insurance endorsement(s) and pay a \$50 late fee within thirty days. Respondent has yet to file the necessary insurance endorsement(s) and pay the late fee. Accordingly, Certificate No. 995 shall be revoked pursuant to Article XI, Section 10(c), of the Compact.

In addition, because respondent held Certificate No. 995 as of January 1 of this year, respondent was required to pay a \$150 annual fee for 2009 and file an annual report for 2009.¹ The fee and report were due January 31. Respondent has yet to comply. Therefore, under Regulation No. 67-03, respondent now owes an additional \$200 in late fees.

Respondent requests a waiver of the annual fee, the annual report, and associated late fees on the ground that respondent was "put out of business" in July 2008. Under Commission Rule No. 29, the Commission may waive its rules "upon the filing of a motion showing good cause." We find that respondent has not shown good cause.

"The annual fee requirement applies to each carrier holding a certificate of authority on the first day of the calendar year - not just to those who hold authority and are still operating."² The record does not support respondent's version of events, in any case.

Respondent filed a vehicle list on January 22, 2008, as part of his 2008 annual report. The list contained two vehicles. According to respondent's insurance company, respondent deleted one of the vehicles from his policy in February 2008, and the insurance company sent a partial refund of premium to the finance company that had paid the premium on respondent's behalf. There is no evidence in the record that respondent deleted the other vehicle from his insurance

¹ Regulation Nos. 67-02 and 60-01, respectively.

² *In re Avery Transp., LLC*, No. MP-06-195, Order No. 10,319 (Mar. 9, 2007).

policy or attempted to cancel the policy at any time prior to the January 15, 2009, expiration date. Neither respondent nor the insurance company assert otherwise. It strains credulity to believe that respondent would not have cancelled the policy in July 2008 if the remaining vehicle was not generating any revenue.

Indeed, respondent's general tariff was still on file and in effect after July 2008 and is still on file and in effect today. Respondent has yet to request voluntary termination and does not claim that the WMATC markings on the remaining vehicle were ever removed, much less in July 2008. In short, there is no evidence that respondent ceased operations in July 2008 other than the unsworn statement of his secretary, Laura Robinson. There is ample evidence to the contrary.

In accordance with Commission Regulation Nos. 60 and 67, respondent's unpaid \$150 annual fee for 2009, unfilled 2009 annual report, and another \$200 in late fees, shall remain due. The \$50 late insurance fee shall also remain due.

THEREFORE, IT IS ORDERED:

1. That Certificate of Authority No. 995 is hereby revoked.
2. That within 30 days from the date of this order respondent shall:
 - a. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
 - b. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and
 - c. surrender Certificate No. 995 to the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS CHRISTIE AND BRENNER:



William S. Morrow, Jr.
Executive Director